APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,998	04/03/2001	Thomas P. Mulligan	5298-05300	3580

35617 7590 07/28/2005	EXAMINER
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ART UNIT	PAPER NUMBER
2173	

AUSTIN, TX 78768

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/826,998	MULLIGAN ET AL.
	Examiner	Art Unit	
	Kieu D. Vu	2173	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 April 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   This Office Action is in response to the Amendment filed 04/27/05 and the Affidavit Under CFR 1.131 filed 04/27/05.

2.   The Affidavit filed on 04/27/05 under 37 CFR 1.131 has been considered but is ineffective to overcome the Chaudhry (USP 6721944) reference.

The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the Chaudhry reference. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897). The evidence fails to specify which part of the disclosure is relied on to establish a conception of the invention prior to the effective date of the Chaudhry reference.

Furthermore, the evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Chaudhry reference to either a constructive reduction to practice or an actual reduction to practice. Merely stating "We did not abandon, suppress, or conceal the ideas set forth in the claimed invention during at least the time beginning just prior to May 31, 2000 through the filing of the application on April 3, 2001" is not adequate (see MPEP 715.07 (a)).

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4.   Claims 8-9, 12, 14, and 21 are rejected under 35 U.S.C. 102(e) as being

anticipated by Martin (USP 6438746).

Regarding claim 8, Martin teaches method comprising a first text preceded by a

comments designator (part 1000b in Fig. 9) and succeeded by link word (col 10, lines 9-

16) that is adapted by modification by an on-screen pointer (col 5, lines 51-60) and a

second text displayed on a display device for presenting a data set that changes

dependent on modification to the link word by modification of the data set (Fig. 9).

Regarding claim 9, Martin teaches that the link word and the data set reside

within a single window for display upon the display device (Fig. 9).

Regarding claim 12, Martin teaches the data set is linked to an applications

program to form computer executable code (col 5, lines 11-15).

Regarding claim 14, Martin teaches that the data set comprises several grouping

of fields that define timing signals (1010b and 1012b).

Regarding claim 21, Martin teaches that the link word is activated by a user of

the computer program to modify the data set (Since the comment is text entered by a

user, each word of the comment (including =) can be modified to modify the data set)

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

6.   Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Martin and Shulman et al ("Shulman", USP 6026233).

Regarding claims 10-11, Martin does not teach that the link word and the data

set reside in two separate windows concurrently displayed on the display device.

However, such feature is known in the art as taught by Shulman. Shulman teaches a

method for presenting and selecting options to modify a programming language

statement. Shulman discloses displaying concurrently two windows on the display

device (Fig. 4). It would have been obvious to one of ordinary skill in the art, having the

teaching of Martin and Shulman before him at the time the invention was made, to

modify the program generating system taught by Martin to include the concurrently

display two windows taught by Shulman with the motivation being to enable the system

to efficiently present the computer program.

7.   Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martin

and Propster et al ("Propster", USP 4541048).

Regarding claim 13, Martin does not teach the defining an electrical waveform

and setting waveform descriptor commands of a programmable interface circuit.

However, such feature is known in the art as taught by Propster. Propster teaches a

modular programmable signal processor which comprises the defining an electrical waveform and setting waveform descriptor commands of a programmable interface circuit (Fig. 10; col 2, lines 35-37). It would have been obvious to one of ordinary skill in the art, having the teaching of Martin and Propster before him at the time the invention was made, to modify the program generating system taught by Martin to include the waveform taught by Propster with the motivation being to enable the system to efficiently indicate the memory access and data of the system.

8.   Claims 1-4 and 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin (USP 6438746) and Chaudhry et al ("Chaudhry", USP 6721944).

        Regarding claim 1, Martin teaches a method for generating computer executable code, comprising creating a data set (1000b) and inserting the data set into an applications program to form the computer executable code (col 2, lines 14-24; col 12, lines 57-60). Martin differs from the claim in that Martin does not teach the data set is created by modifying a comments portion of a program by activating a user-selectable link embedded within the comments portion. However, such feature is known in the art as taught by Chaudhry. Chaudhry teaches a computer system that allows a programmer to examine source code that is to be compiled into executable code for a head thread that executes program instructions (col 2, lines 22-26). Chaudhry further teaches that the system allows programmer to select, modify, and insert hint (comment) into the source code that causes the compiler to generate executable code (col 2, lines 31-45; col 2, lines 55-59). It would have been obvious to one of ordinary skill in the art, having the teaching of Martin and Chaudhry before him at the time the invention was made, to modify the system taught by Martin to include modifying and inserting

comment portions taught by Chaudhry with the motivation being to enable the system to generate code from the comment portions when necessary.

Regarding claim 1, Martin teaches a method for generating computer executable code, comprising creating a data set (1000b) having user selectable link word (=) and inserting the data set into an applications program to form the computer executable code (col 2, lines 14-24; col 12, lines 57-60). Martin differs from the claim in that Martin does not teach the data set is created by modifying a comments portion of a program. However, such feature is known in the art as taught by Chaudhry. Chaudhry teaches a computer system that allows a programmer to examine source code that is to be compiled into executable code for a head thread that executes program instructions (col 2, lines 22-26). Chaudhry further teaches that the system allows programmer to select, modify, and insert hint (comment) into the source code that causes the compiler to generate executable code (col 2, lines 31-45; col 2, lines 55-59). It would have been obvious to one of ordinary skill in the art, having the teaching of Martin and Chaudhry before him at the time the invention was made, to modify the system taught by Martin to include modifying and inserting comment portions taught by Chaudhry with the motivation being to enable the system to generate code from the comment portions when necessary.

Regarding claims 2 and 19, Martin teaches the displaying a link within a line of text preceded by a comments designator (symbol "//" in Fig. 9; col 7, lines 34-39).

Regarding claims 3 and 18, Martin teaches the displaying a window containing the comments portion and the data set (part 1000b in Fig. 9).

Regarding claim 4, Martin teaches an on-screen pointer and a pointer device (col 4, lines 39-49).

Regarding claim 17, Martin teaches the data set is linked to an applications program to form computer executable code (col 5, lines 11-15).

Regarding claim 15, Martin teaches a compiler 316 for generating a data set containing one field of bits (col 10, lines 9-16), the data set comprises a user selectable link word (=) (1000b in Fig. 9) and hardware for generating programmable signals (col 3, lines 24-36). Martin differs from the claim in that Martin does not teach the data set is created by modifying a comments portion of a program. However, such feature is known in the art as taught by Chaudhry. Chaudhry teaches a computer system that allows a programmer to examine source code that is to be compiled into executable code for a head thread that executes program instructions (col 2, lines 22-26). Chaudhry further teaches that the system allows programmer to select, modify, and insert hint (comment) into the source code that causes the compiler to generate executable code (col 2, lines 31-45; col 2, lines 55-59). It would have been obvious to one of ordinary skill in the art, having the teaching of Martin and Chaudhry before him at the time the invention was made, to modify the system taught by Martin to include modifying and inserting comment portions taught by Chaudhry with the motivation being to enable the system to generate code from the comment portions when necessary.

Regarding claim 16, Martin teaches that the link is accessible by a user via a graphical user interface (col 5, lines 51-60).

Regarding claim 20, Martin teaches that the comments designator notes the corresponding line of text as non-executable words separate and distinct from lines of program commands (col 7, lines 34-39).

9.   Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martin, Chaudhry, and Shulman et al ("Shulman", USP 6026233).

Regarding claim 5, Martin does not teach the use of pull-down menu in computer programming. However, such feature is known in the art as taught by Shulman. Shulman teaches a method for presenting and selecting options to modify a programming language statement. Shulman discloses the generating an assisting window that contains program related information for use by a programmer (Fig. 5-6, col 4, lines 20-24). It would have been obvious to one of ordinary skill in the art, having the teaching of Martin and Shulman before him at the time the invention was made, to modify the program generating system taught by Martin to include the pull-down assisting menu window taught by Shulman with the motivation being to enable the system to efficiently assist a computer programmer during the writing, evaluation, and maintenance of a computer program.

10.   Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin, Chaudhry, and Propster et al ("Propster", USP 4541048).

Regarding claims 6-7, Martin does not teach the defining an electrical waveform and setting waveform descriptor commands of a programmable interface circuit. However, such feature is known in the art as taught by Propster. Propster teaches a modular programmable signal processor which comprises the defining an electrical waveform and setting waveform descriptor commands of a programmable interface

circuit (Fig. 10; col 2, lines 35-37). It would have been obvious to one of ordinary skill in the art, having the teaching of Martin and Propster before him at the time the invention was made, to modify the program generating system taught by Martin to include the waveform taught by Propster with the motivation being to enable the system to efficiently indicate the memory access and data of the system.

11.   Response to Applicant's argument filed 04/27/05.

Applicant argues that "Martin fails to disclose a computer program including text, which is preceded by a comments designator and succeeded by at least one link word that is adapted for modification by an on-screen pointer", "the Applicants disagree with the Examiner's overly-broad interpretation of the term "link word", "The intended meaning of the term "link" or "link word" is clearly defined, e.g., on page 10 of the present specification", "When read in light of the specification, the term "link word" (otherwise referred to as an "active link" or "hot link"..... In the embodiment of FIG. 3, for example, activation or selection of a "link word" may present a pull-down menu.... Martin does not teach or suggest that the "=" symbol may function as an "active link", a "hot link", or any other "link" that may be activated or selected (in a manner similar to internet URLs) for selecting different configuration options of the generated program code. As such, the specification describes how a link word adapted for modification by an on-screen pointer".

However, it is noted that the features upon which applicant relies (i.e., "active link" or "hot link" or "link" that may be activated or selected (in a manner similar to internet URLs) for selecting different configuration options of the generated program code) are not recited in the rejected claim(s). Although the claims are interpreted in

light of the specification, limitations from the specification are not read into the claims.
See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant argues "the teachings of Chaudhry (which merely insert comments into source code) cannot be relied upon to provide teaching or suggestion for the presently claimed limitation of modifying a comments portion of a program by activating user-selectable link embedded within the comments portion. In other words, Chaudhry fails to even mention the use of link, user-selectable links or any other type of link...". However, as presented in the rejection of claim 1 above, Martin teaches data set comprising a link word (= symbol), so Chaudhry is cited for teaching that data set to form computer executable code can be created by modifying a comments portion of a program (col 2, lines 31-45; col 2, lines 55-59).

Applicant argues "Chaudhry is not available as prior art against the current application". However, as presented in section 2 above, the Affidavit filed on 04/27/05 under 37 CFR 1.131 has been considered but is ineffective to overcome the Chaudhry (USP 6721944) reference.

12.   The prior art made of record on form PTO-892 and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 C.F.R. ɘ 1.111(c) to consider these references fully when responding to this action. The document cited therein teaches about comment portion that contains icon which relates to the claimed invention.

13.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

14.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Kieu D. Vu.

The examiner can normally be reached on Mon - Thu from 7:00AM to 3:00PM at

571-272-4057.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Cabeca, can be reached at 571-272-4048.

The fax phone numbers for the organization where this application or proceeding

is assigned are as follows:
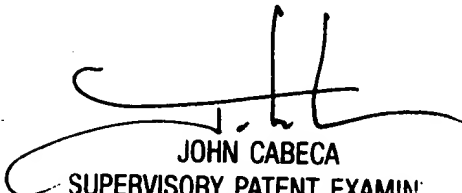
571-273-8300

and / or:

571-273-4057 (use this FAX #, only after approval by Examiner, for "INFORMAL"

or "DRAFT" communication. Examiners may request that a formal paper / amendment

be faxed directly to them on occasions).

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the receptionist whose telephone number is (703-305-

3900).

Kieu D. Vu

Patent Examiner.

JOHN CABECA
SUPERVISORY PATENT EXAMIN'
TECHNOLOGY CENTER 21⌐